

REMARKS

This Amendment is submitted in response to the Office Action mailed on April 14, 2005. Claims 1 and 10 have been amended and claims 19-26 stand withdrawn pursuant to a restriction requirement raised by Examiner. Claims 1-18 remain pending in the present application. In view of the foregoing amendments, as well as the following remarks, Applicants respectfully submit that this application is in complete condition for allowance and requests reconsideration of the application in this regard.

Applicants submit herewith a Terminal Disclaimer to obviate the obviousness-type double patenting rejection over claims 11-17 of U.S. Patent No. 6,672,356 in view of Soto et al., U.S. Patent No. 6,615,106. Accordingly, Applicants respectfully request that the obviousness-type double patenting rejection of claims 1-18 be withdrawn.

Applicants have amended the Abstract to overcome the objection raised by the Examiner and respectfully request that the objection be withdrawn.

Claims 1-6, 8, 10-15 and 17 stand rejected under 35 U.S.C. §102(b) as being anticipated by Franklin et al., U.S. Patent No. 5,865,918. Claims 7 and 16 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Franklin et al., U.S. Patent No. 5,865,918 and further in view of Carpenter et al., U.S. Patent No. 5,232,539. Lastly, claims 9 and 18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Franklin et al. and further in view of Schwenke et al., U.S. Patent No. 5,940,293. Applicants respectfully traverse these rejections for the reasons set forth below and submit that pending claims 1-18 are patentable over the prior art of record.

In particular, Examiner will note that amended independent claim 1 recites a label applicator mechanism that is operatively connected to a label printer for "directly" receiving a label printed by the label printer and rotating the printed label toward one side of a loaded pallet for applying the label thereto. As described at Page 19, lines 5-23 of Applicants' disclosure and as shown in Figs. 2, 7A, 7B and 8, the printed label is transferred from the label printer to the pad without requiring any movement of the pad to receive the printed label thereon. The printed label is applied to the one side of the loaded pallet at a predetermined label position which is variably definable for individual loaded pallets independent of pallet size. Claim 1 further recites a drive mechanism capable of moving the label applicator mechanism relative to the loaded pallet and a programmable control operatively coupled to the drive mechanism for causing the drive mechanism to move the label applicator mechanism so as to apply the printed label to the one side of the loaded pallet at the predetermined label position.

Amended independent claim 10 is similar to claim 1 but recites a label applicator mechanism for "directly" receiving labels printed by the label printer and rotating the printed labels toward two sides of a loaded pallet for applying the printed labels at a predetermined label position, for each of the two sides of the loaded pallet, which is variably definable for individual loaded pallets independent of pallet size.

In contrast, Franklin et al. is directed to a label applicator for applying a printed label to an article. In one embodiment of the label applicator as shown in Figs. 12-16, a "flapper" arrangement is formed by a static plate (114), hinge (115), pivoting plates (116) and pad (133) for applying a printed label to a vertical or horizontal surface of the article, such as a box. A rotary actuator (125) is provided on the "flapper"

arrangement to rotate the pad (133) between vertical and horizontal positions (see Col. 11, lines 44-65).

In this embodiment, the printer discharges printed labels onto a surface (105) of a tray (104). The rotary actuator (125) rotates the pad (133) to a horizontal position to pick up the printed label from the tray (14) and then the "flapper" arrangement is positioned as shown in either of Figs. 13 and 14 to apply the printed label to the desired side of the box. Using this "flapper" arrangement, the position of the printed label on the side of the article is fixed for all articles so that the label position is not variably definable.

In an alternative embodiment of the Franklin et al. label applicator, as shown in Figs. 21 and 22, a multi-position label applicator is provided for varying the location of a label on an article. In this embodiment, movement of the label applicator pad (145) is controlled by a computer system that controls movement of an X slide (265), a Y slide (266), a vertical slide (267) and a rotary actuator (225) (see Col. 14, lines 9-32).

In this embodiment, the printer discharges printed labels onto a surface (105) of a tray (104). The pad (145) is moved to pick up a printed label from the tray (104) and then the pad (145) is moved to a predetermined position in response to movement of the X slide (265), Y slide (266), vertical slide (267) and rotary actuator (225) to apply the printed label at a desired location on one or more sides of the box.

Applicants respectfully submit that in the alternative embodiments of the Franklin et al. label applicator, the pad (133, 145) does not receive printed labels "directly" from the label printer as claimed by Applicants in each of independent claims

1 and 10. Rather, the pad (133, 145) of Franklin et al. must first be moved to pick up a printed label from the tray (104) before the printed label is applied to a side of the box. Moreover, in the Franklin et al. label applicator embodiment having a "flapper" arrangement, the label position is fixed for all boxes and is therefore not variable definable for individual loaded pallets independent of pallet size as recited in each of independent claims 1 and 10. While the Franklin et al. label applicator embodiment having the X slide (265), Y slide (266), vertical slide (267), rotary actuator (225) and computer system does permit variable placement of the printed labels on more or more sides of a box, the label applicator of this embodiment does not use a "flapper" arrangement, and therefore does not rotate the printed label toward one side of a box for applying the printed label thereto as recited in each of independent claims 1 and 10. Accordingly, Applicants respectfully submit that Franklin et al. taken alone, or in combination with the other prior art of record, fails to teach or suggest the combination of elements recited in each of independent claims 1 and 10 and the rejections of these claims should be withdrawn.

Moreover, as claims 2-9 and 11-18 depend from allowable independent claims 1 and 10, and further as each of these claims recites a combination of elements not taught or suggested by the prior art of record, Applicants respectfully submit that these claims are allowable as well.

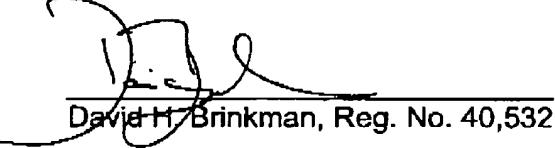
Conclusion

In view of the foregoing response including the amendments and remarks, this application is submitted to be in complete condition for allowance and early notice to this affect is earnestly solicited. If there is any issue that remains which may be resolved by telephone conference, the Examiner is invited to contact the undersigned in order to resolve the same and expedite the allowance of this application.

Applicants do not believe that this response requires that any fees be submitted, however, if any fees are deemed necessary, these may be charged to Deposit Account No. 23-3000.

Respectfully submitted,

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